

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DARREN GILBERT,

Plaintiff,

v.

DOCTOR'S CHOICE MODESTO LLC, et
al.,

Defendants.

Case No. 1:21-cv-00690-AWI-SAB

ORDER DENYING SUBSTITUTION OF
ATTORNEY WITHOUT PREJUDICE AND
SUBJECT TO FILING OF A NOTICED
MOTION

(ECF No. 40)

On March 24, 2022, Defendant Amar Kumar's counsel, Lawrence T. Niermeyer, filed a substitution of attorney form indicating that Amar Kumar has been substituted as new counsel, for Amar Kumar. (ECF No. 40.) However, as indicated on the form by entering "none" in the space for "State Bar No.," Amar Kumar is not a licensed attorney in the State of California. It is unclear why Defendant's counsel presumed it to be proper to withdraw from the action in this manner using such form. Pursuant to Local Rule 182(d), an attorney may not withdraw as counsel and leave a party *pro se* without leave of Court upon noticed motion. L.R. 182(d). More specifically, Local Rule 182(d) provides:

Unless otherwise provided herein, an attorney who has appeared may not withdraw leaving the client in propria persona without leave of court upon noticed motion and notice to the client and all other parties who have appeared. The attorney shall provide an affidavit stating the current or last known address or addresses of the client and the efforts made to notify the client of the motion to withdraw. Withdrawal as attorney is governed by the Rules of

Professional Conduct of the State Bar of California, and the attorney shall conform to the requirements of those Rules. The authority and duty of the attorney of record shall continue until relieved by order of the Court issued hereunder. Leave to withdraw may be granted subject to such appropriate conditions as the Court deems fit.

Id.; see also Cal. R. Prof. Conduct 3-700(A)(2); CE Res., Inc. v. Magellan Group, LLC, No. 2:08-cv-02999-MCE-KJM, 2009 WL 3367489, at *1 (E.D. Cal. Oct. 14, 2009); McClintic v. U.S. Postal Serv., No. 1:13-cv-00439, 2014 WL 51151, at *2 (E.D. Cal. Jan. 7, 2014). Therefore, the Court finds the instant request for substitution does not comply with the Local Rules or Rules of Professional Conduct and must therefore be denied, without prejudice.

Accordingly, IT IS HEREBY ORDERED that the substitution of attorney (ECF No. 40), is DENIED without prejudice to re-filing as a properly-noticed motion to withdraw pursuant to the Local Rules and Rules of Professional Conduct of the State Bar of California.

IT IS SO ORDERED.

Dated: March 25, 2022


UNITED STATES MAGISTRATE JUDGE